**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION No. 1325 of 2006**

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**DATED: 27.01.2006**

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**Between:**

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A.Somaiah, S/O Balaiah, Secretary,

Primary Agricultural Cooperative Society Limited,

Mangalpally-Patelguda, Ibrahimpatnam Mandal,

Ranga Reddy District.

… **PETITIONER**

**And**:

The Primary Agricultural Cooperative Society Limited,

Mangalpaly-Patelguda, Ibrahimpatnam, RR District

Represented by its President, and others.

… **RESPONDENTS**

**THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION No. 1325 of 2006**

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**ORDER**:

The petitioner is employed as Secretary in the Primary Agricultural Cooperative

Society, Mangalpally-Patelguda, Ranga Reddy District. Through proceedings dated 09.01.2006, the President of the Society placed the petitioner under suspension. In the order of suspension, it was pointed out that a sum of Rs.12,65,552/- was said to have been misappropriated by the petitioner, as per the Audit report. Further, the Divisional Cooperative Officer, Hyderabad East, is also said to have issued proceedings dated 24.12.2005, directing the Society to take action against the petitioner. The validity of the order dated 09.01.2006 is challenged in this writ petition.

Sri Nandigama Krishna Rao, learned counsel for the petitioner, had urged several contentions, touching on the merits of the matter, as well as interpretation of the provisions of the Andhra Pradesh Cooperative Societies Act, 1964 (for short "the Act"). He contends that the direction said to have been issued by the Divisional Cooperative Officer does not conform to Section 59 of the Act. He further submits that as on today, there is no valid and legal report of audit, which conforms to the provisions of the Act.

Learned Government Pleader for Cooperation, on the other hand, submits that the truth or otherwise of the allegations against the petitioner can be known only after the disciplinary enquiry is concluded.

The power of an employer to place an employee under suspension, pending disciplinary proceedings, is treated as incidental to the power to appoint or remove such an employee. The only requirement is that there must exist some basis for placing an employee under suspension. Here again, a distinction needs to be made between existence of material and proof of the same. The latter would emerge in the ultimate disciplinary proceedings.

In the instant case, the order of suspension passed against the petitioner is based upon the Audit report for the years 2002-2003. In the report, the petitioner is said to have misappropriated or misutilised a sum of Rs. 12,65,552/-. It is only in the disciplinary proceedings that the allegation levelled against the petitioner can be established. The petitioner can put forward all his defences in the disciplinary

enquiry. Even if there is any defect in the direction issued by the Divisional Cooperative Officer, it cannot be said that the order of suspension is either vitiated or is without jurisdiction.

Learned counsel for the petitioner submits that the petitioner is suffering from ill health, inasmuch as his kidneys are replaced and that the matter cannot be kept pending indefinitely.

For the foregoing reasons, the writ petition is disposed of directing that the respondents shall conclude the disciplinary proceedings against the petitioner within a period of four months from the date of receipt of a copy of this order. They shall also pay the subsistence allowance to the petitioner, as per the relevant provisions, during the period of suspension. There shall be no order as to costs.

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27.01.2006

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